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12 *New York Mellon, successor*
13 *trustee to JPMorgan Chase Bank,*
14 *National Association, as Trustee*
15 *f/b/o holders of Structured Asset*
16 *Mortgage Investments II Inc., Bear*
17 *Stearns ALT-A Trust 2005-10,*
18 *Mortgage Pass-Through*
19 *Certificates, Series 2005-10*

20 UNITED STATES DISTRICT COURT

21 DISTRICT OF NEVADA

22 THE BANK OF NEW YORK MELLON,
23 SUCCESSOR TRUSTEE TO JPMORGAN
24 CHASE BANK, NATIONAL
25 ASSOCIATION, AS TRUSTEE F/B/O
26 HOLDERS OF STRUCTURED ASSET
27 MORTGAGE INVESTMENTS II INC.,
28 BEAR STEARNS ALT-A TRUST 2005-10,
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2005-10,

Plaintiff,

vs.

POSHBABY L.L.C. SERIES 6653
GOLDENCREEK WAY, a Nevada limited
liability company; SMOKE RANCH
MAINTENANCE DISTRICT, a Nevada
non-profit corporation.

Defendant.

Case No. 2:16-cv-02802-KJD-GWF

**STIPULATION AND ORDER TO
EXTEND DISCOVERY
DEADLINES FOR THE LIMITED
PURPOSE OF CONDUCTING
DEPOSITIONS**

(FIFTH REQUEST)

Pursuant to Local Rule 26-4 and the Court's Scheduling Order, Plaintiff The Bank of New York Mellon, successor trustee to JPMorgan Chase Bank, National Association, as Trustee f/b/o holders of Structured Asset Mortgage Investments II Inc., Bear Stearns ALT-A Trust 2005-10, Mortgage Pass-Through Certificates, Series 2005-10 ("Trustee"), Defendant Poshbaby L.L.C. Series 6653 GoldenCreek Way ("Poshbaby"), and Defendant Smoke Ranch Maintenance District ("Smoke Ranch") by and through their respective counsel of record, hereby agree and respectfully submit this stipulation as follows:

Stipulated Amendment of Scheduling Order

1. Statement of Discovery Completed

On February 1, 2018, the Court granted the parties' fourth stipulation to extend discovery for the limited purpose of conducting depositions, which set the following relevant deadlines:

- (a) Depositions Complete and Close of Discovery: April 3, 2018
- (b) Dispositive Motions: May 3, 2018
- (c) Pretrial Order: June 1, 2018 (suspended upon the filing of dispositive motions until 30 days after decision on any dispositive motions).

Trustee has completed the following:

- 1. Service of its Initial Disclosures on April 4, 2017;
- 2. Service of written discovery to Poshbaby and Smoke Ranch on June 30, 2017;
- 3. Service of subpoenas to produce documents and for deposition to third-party Red Rock Financial Services on July 11, 2017; and
- 4. Service of Deposition Notices to Poshbaby and Smoke Ranch on December 6, 2017.

Poshbaby has completed the following:

- 1. Service of its Initial Disclosures on April 5, 2017;
- 2. Response to Trustee's Requests for Admission on December 13, 2017;

1 3. Service of Deposition Notice to Trustee on December 18, 2017;

2 4. Response to Trustee's written discovery on March 15, 2018.

3 Smoke Ranch has completed the following:

4 1. Service of its Initial Disclosures on September 8, 2017; and

5 2. Response to Trustee's written discovery on December 8, 2017.

6 **2. Discovery that Remains to be Completed**

7 Written discovery has been completed as of March 15, 2018, when Trustee
8 received Poshbaby's responses to written discovery. In the event the parties cannot
9 reach a settlement, Trustee intends to take the depositions of Poshbaby, Smoke
10 Ranch, and other witnesses whose deposition may become necessary. Poshbaby
11 intends to take the deposition of Trustee.

12 **3. The Reasons Why Remaining Discovery Was Not Completed**

13 Poshbaby and Trustee have continued to work toward a settlement in this
14 matter, and believe a settlement is likely to resolve this case without the need to
15 incur the significant cost of conducting depositions and resolving outstanding
16 discovery issues in this case. The parties believe the Court's and their own
17 resources are best put toward settlement rather than further litigation expense.
18 Trustee also recently received, on March 15, 2018, the written discovery responses
19 necessary to adequately prepare for and conduct a deposition of Poshbaby.
20 Accordingly, the parties have agreed that depositions should be deferred both to
21 allow settlement negotiations to continue without incurring the significant cost of
22 conducting depositions and, in the event settlement is not reached, to allow the
23 parties adequate time to notice and prepare for any depositions.

24 Poshbaby and Trustee have used the time allowed by the Court's prior
25 extension of discovery to engage in productive settlement talks, but have not yet
26 reached agreement. Poshbaby and Trustee believe that a mutually agreeable
27 settlement is a likely outcome in this case but they require additional time to work
28 toward settlement. Good cause exists to grant the extension, because a limited

1 extension of discovery will preserve the parties' and the Court's resources with
2 respect to remaining discovery issues and depositions, and will also increase the
3 likelihood of a settlement by allowing the parties to defer or altogether avoid the
4 cost of further discovery and litigation in favor of reaching a negotiated settlement.
5 This request is not made for delay or for any other improper purpose.

6 **4. Proposed Discovery Schedule**

7 The Parties stipulate and agree to an extension of discovery for the limited
8 purpose of conducting depositions, subject to the following proposed deadlines:

- 9 (a) Depositions Complete and Close of Discovery: Monday, July 2, 2018
10 (b) Dispositive Motions: Wednesday, August 1, 2018
11 (c) Pretrial Order: Friday, August 31, 2018 (suspended upon the filing of
12 dispositive motions until 30 days after decision on any dispositive motions).

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1 **5. Trial**

2 No trial date has been set in this matter.

3 Dated: March 28, 2018.

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5 BALLARD SPAHR LLP

PENGILLY LAW FIRM

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23 **IT IS SO ORDERED.**

24 
25 UNITED STATES MAGISTRATE JUDGE

26 DATED: 3/29/2018